

**REMARKS**

Applicants respectfully request entry of the above preliminary amendment.

Pursuant to 35 U.S.C. § 120, the specification has been amended to recite the continuation status of this application, and its relationship to previous applications.

The drawings (Fig. 1A and 1B) have been amended to correct typographical errors and to conform them to the originally filed Figure 1A and 1B of the priority provisional Application No. 60/081,734 (our File UCSD-04729).

This application presents for prosecution Claims 43-46, 48-51 and 54-59, which were cancelled during prosecution from the priority application Serial No. 09/673,222 (our File UCSD-04765). Thus, Claims 1-42, 47, 52-53 have been cancelled, notwithstanding Applicants' belief that the cancelled claims would have been allowable, and without waiving the right to prosecute the unamended (or similar) claims in another application, but rather for the purpose of furthering Applicants' business goals and expediting the patent application process in a manner consistent with the PTO's Patent Business Goals (PBG).<sup>1</sup> None of the amendments to the claims is related to the statutory requirements of patentability.

Claims 43, 58, and 59 have been amended to recite a "test" agent as supported by the teaching:

"The term "test agent" refers to an agent that is to be screened in one or more of the assays described herein. The agent can be virtually any chemical compound. It can exist as a single isolated compound or can be a member of a chemical- (e.g., combinatorial) library. In a particularly preferred embodiment, the test agent will be a small organic molecule."<sup>2</sup>

Claims 48 has been amended by inserting the term "4'-6-diamidino-2-phenylindole" which is equivalent to the originally-recited term "DAPI" as supported by Heusele *et al.* (1987) Eur. J. Biochem. 165: 613-620, a copy of which was previously submitted as reference # 104 in PTO-1449, and which is referred to in the Specification as follows:

"In another embodiment, the state of microtubule polymerization can be determined by changes in fluorescence of DAPI stained microtubules. It has been shown that DAPI fluorescence intensity is higher when this dye is bound

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<sup>1</sup> 65 Fed. Reg. 54603 (September 8, 2000).

<sup>2</sup> Specification, page 10, lines 27-30.

to polymerized versus free tubulin (Heusele et al. (1987) Eur. J. Biochem. 165: 613-620)."<sup>3</sup>

Claim 55 has been amended by deleting the period on line 2, and by cancelling the recitation "each reaction mixture comprising a distinct and distinguishable domain of said array." This is not a narrowing amendment.

Claim 43 has been amended by incorporating the limitations of cancelled Claim 47 to recite specifically preferred labels, such as DAPI, ANS, bis-ANS, NPN, DCVJ, ruthenium red, and cresol violet. Support for the full term for DAPI is the same as that discussed above with respect to amendment of Claim 48. Support for the full terms for ANS, bis-ANS, and NPN is on page 27, lines 23-26 which teaches:

"Labels that can be used include, but are not limited to anilinonaphthalene sulfonate (ANS) (e.g., Molecular Probes Catalogue Nos: A-47, A-50, T-53, etc.), bis-ANS (Molecular Probes Catalogue No: B-153), N-phenyl-1-naphthylene (NPN) (Molecular Probes Catalogue No: P65), DCVJ (Molecular Probes Catalogue No: D-3923), ruthenium red, and cresol violet."

Additional support for the full name [i.e., 4-(dicyanovinyl)julolidine] of the term "DCVJ" is in attached Tab 3, which shows the full name of DCVJ in the Molecular Probes Catalogue No: D-3923 that is referred to by the immediately preceding sentence from the Specification.

Claims 43, 50, 51, and 59 have also been amended by cancelling the recitation that the agent alters microtubule "polymerization or depolymerization" and that the protein is XKCM1 or OP18 polypeptide.

Claim 44 has been amended to correct a typographical error.

Claim 48 has been amended to depend from Claim 43 instead of cancelled Claim 47.

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<sup>3</sup> Specification, page 27, lines 9-11.

**PATENT**

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Claim 58 has been amended to correct a grammatical error by replacing "one of" with the term "comprises." Support is found in the Specification, page 4, lines 1-3.

Claim 59 has been amended by deleting a period at the end of the claim.

Applicants' amendments do not introduce new matter.

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